

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

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In re:

Erica Itzhak,

Case No. 24-10669-JPM  
Chapter 11

Debtor.

-----X

**NOTICE OF HEARING ON MOTION FOR RELIEF FROM STAY**

VOLVO CAR FINANCIAL SERVICES US LLC, has filed papers with the court to seek relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant relief from the automatic stay to VOLVO CAR FINANCIAL SERVICES US LLC, or if you want the court to consider your views on the motion, then on or before April 9, 2025, you or your attorney must:

File with the court a written response, explaining your position at:

Court Clerk  
U.S. Bankruptcy Court  
One Bowling Green  
New York, NY 10004-1408

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Scott S. Markowitz, Attorney  
1350 Broadway, 11th Floor  
New York, NY 10018

U.S. Trustee  
Office of the United States Trustee  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1408

Yann Geron, Trustee  
370 Lexington Avenue, Suite 1208  
New York, NY 10017

Annie Wells, Attorney for U.S. Trustee  
One Bowling Green, Suite 511  
New York, NY 10004

Erica Itzhak  
345 East 56th Street Apt 4D  
New York, NY 10022

Attend the hearing scheduled to be held on April 16, 2025 at 11:00 a.m. at the U.S. Bankruptcy Court, One Bowling Green, New York, NY 10004 or via Videoconference Zoom for Government.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) days before the return date of this motion.

Date: March 21, 2025

/s/ Geoffrey J. Peters

Geoffrey J. Peters, Esq.  
WELTMAN, WEINBERG & REIS CO., LPA  
5475 Rings Road, Suite 200  
Dublin, OH 43017  
(614) 883-0678  
gpeters@weltman.com  
Attorney for Movant

WWR #041460252

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

-----X

In re:

Erica Itzhak,

Case No. 24-10669-JPM  
Chapter 11

Debtor.

-----X

**AFFIRMATION IN SUPPORT  
OF MOTION FOR RELIEF  
FROM THE STAY**

GEOFFREY J. PETERS, ESQ., an attorney at law duly admitted to practice before the Courts of the State of New York and the Southern District of New York, under the penalties of perjury, duly affirms as follows:

1. I am a shareholder in the law firm of Weltman, Weinberg & Reis Co., L.P.A., attorneys for VOLVO CAR FINANCIAL SERVICES US LLC (“VOLVO”), a secured creditor herein. I am familiar with the facts and circumstances of this matter based upon the information in our file and the attached affidavit of a representative of Movant herein.
2. Jurisdiction is conferred on this Court by the provisions of 28 U.S.C. §1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b).
3. This application is brought pursuant to Rules 4001(a) and 9014 of the Federal Bankruptcy Rules of Procedure (“the Rules”) and §§362(d)(1) and 362(d)(2) of the United States Bankruptcy Code (“the Code”) for an Order, terminating, annulling or modifying the stay imposed under §362(a) of the Code.
4. The Debtor(s) herein filed bankruptcy under Chapter 13 of the Bankruptcy Code on April 19, 2024. The Bankruptcy Case was converted to a Chapter 11 on June 28, 2024.
5. Movant is the holder of a Retail Installment Sale Contract (“Agreement”) with Debtor with respect to the 2020 Volvo XC90 (“Collateral”) bearing vehicle identification number YV4A22PK4L1570435. A copy of the Agreement and Certificate of Title evidencing perfection is attached hereto as Exhibits “A” and “B”.

6. The Debtor is obligated to pay to VOLVO monthly payments in the sum of \$721.21 per month for a period of 72 under the Agreement dated November 29, 2023, by and between VOLVO CAR FINANCIAL SERVICES US LLC and Debtor. In addition, the Debtor must submit a late fee for any payment which is not received within ten (10) days of the due date.

11 USC §362(d)(1)

7. Section 362(d)(1) of the Code provides that the Court shall modify the automatic stay for cause including lack of adequate protection.

8. According to the books and records of VOLVO, the Debtor is in arrears for the payments that became due contractually on January 13, 2025, and all subsequent payments. Therefore as of March 6, 2025, the contractual arrears will total at least \$1,422.23. As such, VOLVO is not adequately protected. Attached as Exhibit “1” is an Affidavit of a qualified Bankruptcy representative employed by Movant.

9. Accordingly, it is submitted that sufficient cause has been demonstrated to vacate the stay pursuant to 11 U.S.C. §362(d)(1).

11 U.S.C. §362(d)(2)

10. Section 362(d)(2) of the Code provides as an additional ground for relief from the stay that the Court shall grant relief if “(A) the debtor does not have an equity in such property and (B) such property is not necessary to an effective reorganization.”

11. According to J.D. Power the average retail value of the Collateral is \$27,156.00. According to the books and records of VOLVO, the current outstanding balance on Debtor’s account is \$33,493.22. A copy of J.D. Power valuation is attached hereto as Exhibit “C”.

12. It is therefore submitted that the basis for relief pursuant to Section 362(d)(2) of the Code is satisfied as the Debtors have no sufficient equity in the Collateral and, upon information and belief, the Collateral is not necessary to an effective reorganization.

**Additional Relief**

13. VOLVO previously filed a Motion for Relief from Stay on November 21, 2024.

14. A copy of the proposed order is attached hereto as Exhibit “2”.

**WHEREFORE**, based on the foregoing and under §362(d) of the Code, VOLVO respectfully requests that this Court enter an Order terminating, annulling or modifying the automatic stay under §362 to the extent necessary to permit VOLVO to promptly repossess and sell the Collateral, and for such other and further relief as is just and proper under the circumstances.

Dated: Dublin, Ohio  
March 21, 2025

/s/ Geoffrey J. Peters  
**GEOFFREY J. PETERS, ESQ.**  
WELTMAN, WEINBERG & REIS CO., LPA  
5475 Rings Road, Suite 200  
Dublin, OH 43017  
(614) 883-0678  
gpeters@weltman.com  
Attorney for Movant

On March 24, 2025 deponent served the within

**MOTION FOR RELIEF FROM STAY, AFFIRMATION IN SUPPORT OR MOTION FOR  
RELIEF FROM THE AUTOMATIC STAY WITH ATTACHED EXHIBITS AND PROPOSED  
ORDER**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of Ohio:

Scott S. Markowitz, Debtor's Attorney  
1350 Broadway, 11th Floor  
New York, NY 10018

Yann Geron, Trustee  
370 Lexington Avenue, Suite 1208  
New York, NY 10017

U.S. Trustee  
Office of the United States Trustee  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1408

Erica Itzhak  
345 East 56th Street Apt 4D  
New York, NY 10022

Annie Wells, Attorney for U.S. Trustee  
Alexander Hamilton Custom House  
One Bowling Green, Suite 511  
New York, NY 10004

All creditors on the attached matrix

/s/ JANELLE WOODARDS  
Janelle Woodards, Legal Assistant  
WELTMAN, WEINBERG & REIS CO., LPA

Label Matrix for local noticing  
0208-1  
Case 24-10669-jpm  
Southern District of New York  
Manhattan  
Thu Oct 31 11:44:48 EDT 2024

Internal Revenue Service  
PO Box 7346  
Philadelphia, PA 19101-7346

Quick Borrow Inc.  
190 Jericho Tpke  
Mineola, NY 11501-1701

Manhattan Division  
One Bowling Green  
New York, NY 10004-1415

American Express National Bank  
c/o Becket and Lee LLP  
PO Box 3001  
Malvern PA 19355-0701

Amex  
P.O. Box 7871  
Fort Lauderdale, FL 33329

BLUEVINE INC.  
c/o WEISSTEIN & RILEY, PS  
1415 Western Avenue, Ste 700  
SEATTLE, WA 98101-2051

Barclays Bank Delaware  
1007 N Orange St  
Wilmington, DE 19801-1239

Cap1/Neimn  
Po Box 5253  
Carol Stream, IL 60197-5253

Cap1/Saks  
Po Box 10327  
Jackson, MS 39289-0327

Capital One  
11013 W Broad St  
Glen Allen, VA 23060-6017

Capital One N.A.  
by AIS InfoSource LP as agent  
PO Box 71083  
Charlotte, NC 28272-1083

Citi  
Pob 6241  
Sioux Falls, SD 57117-6241

Citibank N.A.  
Citibank, N.A.  
5800 S Corporate Pl  
Sioux Falls, SD 57108-5027

Citibank, N.A.  
5800 S Corporate Pl  
Sioux Falls, SD 57108-5027

Citibankna  
Pob 769006  
San Antonio, TX 78245-9006

Creditonebnk  
Pob 98872  
Las Vegas, NV 89193-8872

Discover Bank  
Discover Products Inc  
PO Box 3025  
New Albany, OH 43054-3025

(p)DISCOVER FINANCIAL SERVICES LLC  
PO BOX 3025  
NEW ALBANY OH 43054-3025

FC Marketplace, LLC  
c/o Becket and Lee LLP  
PO Box 3002  
Malvern PA 19355-0702

Fb&T/Mercury  
Po Box 84064  
Columbus, GA 31908-4064

JPMorgan Chase Bank, N.A.  
s/b/m/t Chase Bank USA, N.A.  
c/o National Bankruptcy Services, LLC  
P.O. Box 9013  
Addison, Texas 75001-9013

(p)JPMORGAN CHASE BANK N A  
BANKRUPTCY MAIL INTAKE TEAM  
700 KANSAS LANE FLOOR 01  
MONROE LA 71203-4774

LVNV Funding, LLC  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Macys/Cbna  
Po Bpx 8053  
Mason, OH 45040-8053

NORDSTROM, INC.  
Jefferson Capital Systems LLC Assignee  
Po Box 7999  
Saint Cloud MN 56302-7999

New York City Dept. Of Finance  
Taxpayer Identification Unit  
25 Elm Place, 3rd Floor  
Brooklyn, NY 11201-5826

New York State Department of Taxation & Finan  
Bankruptcy Section  
P O Box 5300  
Albany New York 12205-0300

New York State Tax Commission  
Bankruptcy/Special Procedures Section  
P.O. Box 5300  
Albany, NY 12205-0300

Nordstm/Td  
Po Box 13589  
Scottsdale, AZ 85267-3589

(p) PORTFOLIO RECOVERY ASSOCIATES LLC  
PO BOX 41067  
NORFOLK VA 23541-1067

Quantum3 Group LLC as agent for  
Mercury Financial/First Bank & Trust  
PO Box 788  
Kirkland, WA 98083-0788

Quick Borrow Inc.  
190 Jericho tpke  
United States  
mineola, NY 11501-1701

Quick Borrow Inc.  
45 Glen Cove Road  
Glenvalle, NY 11548-1057

Quick Borrow Inc.  
45 Glen Cove Road, 1st Floor  
Glenvalle, New York 11548-1057

Resurgent Receivables, LLC  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Sofi Bank, National Association  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Sofibank N.A.  
2750 East Cottonwood Parkway  
Salt Lake City, UT 84121-7284

Synccb/Ppc  
Po Box 965005  
Orlando, FL 32896-5005

TD Bank, N.A.  
PO Box 16041  
Lewiston, ME 04243-9523

TD Bank, N.A., successor in interest to TD A  
Gross Polowy LLC  
1775 Wehrle Drive, Suite 100  
Williamsville, NY 14221-7093

Tarter Krinsky & Drogan LLP  
1350 Broadway, 11th Floor  
New York, NY 10018-0947  
Attn: Scott S. Markowitz, Esq.

Td Auto Fin  
Po Box 9223  
Farmington, MI 48333-9223

(p)US BANK  
PO BOX 5229  
CINCINNATI OH 45201-5229

United States Trustee  
Office of the United States Trustee - NY  
Alexander Hamilton Custom House  
One Bowling Green, Room 534  
New York, NY 10004-1459

VOLVO CAR FINANCIAL SERVICES LLC  
c/o Weltman, Weinberg & Reis Co. LPA  
5000 Bradenton Ave., Ste. 100  
Dublin, OH 43017-3574

Volvo Car Financial Services LLC  
c/o Weltman, Weinberg & Reis Co LPA  
965 Keynote Circle  
Cleveland, OH 44131-1829

Volvocarrtl  
Po Box 91614  
Mobile, AL 36691-1614

Yossef Kahlon a/k/a Jossef Kahlon  
c/o David H. Haft, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
110 Southeast Sixth Street, Suite 2600  
Fort Lauderdale, FL 33301-5059

Yossef Kahlon and Atlas Solar Holdings LLC  
c/o Vlock & Associates  
630 Third Avenue, 18 Floor  
New York, NY 10017-6940

Erica Itzhak  
345 East 56th Street Apt 4D  
New York, NY 10022-3745

Erica T Yitzhak  
The Yitzhak Law Group  
1 Linden Place, Suite 406  
Great Neck, NY 11021-2640

Scott S. Markowitz  
Tarter Krinsky & Drogan LLP  
1350 Broadway, 11th Floor  
New York, NY 10018-0947

Yann Geron  
Yann Geron  
Geron Legal Advisors LLC  
370 Lexington Avenue  
Suite 1208  
New York, NY 10017-6584

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Discoverbank  
Pob 15316  
Wilmington, DE 19850

Jpmcb Card  
800 Brookside Blvd  
Westerville, OH 43081

PORTFOLIO RECOVERY ASSOCIATES, LLC  
POB 41067  
Norfolk, VA 23541

U.S. Bank National Association  
Bankruptcy Department  
PO Box 108  
Saint Louis MO 63166-0108

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) TD Bank, N.A., successor in interest to TD

(u) VOLVO CAR FINANCIAL SERVICES LLC

(d) FC Marketplace, LLC

c/o Becket and Lee LLP

PO Box 3002

Malvern, PA 19355-0702

(d) Internal Revenue Service

PO Box 7346

Philadelphia, PA 19101-7346

(u) Yossef Kahlon

End of Label Matrix

Mailable recipients 53

Bypassed recipients 5

Total 58

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

-----X

In re:

Erica Itzhak,

Case No. 24-10669-JPM  
Chapter 11

Debtor.

**MEMORANDUM OF LAW**

-----X

**PRELIMINARY STATEMENT**

This is a Motion pursuant to Rule 4001(a)(1) of the Federal Rules of Bankruptcy Procedures to lift the Automatic Stay imposed by §362(a) of the United States Bankruptcy Code. The moving party is seeking relief from the Automatic Stay to exercise its state rights under a Retail Installment Sale Contract, (“Agreement”). The basis for this Motion is that Movant has cause for requesting the automatic stay be lifted and Debtor does not have sufficient equity in the Collateral and the Collateral is not necessary for an effective reorganization within the meaning of §362(d)(1) and (d)(2). All of the necessary parties to this Motion have been served with copies of the Notice and supporting Application.

**FACTS**

As set forth in the application of Secured Creditor, the Debtor executed the Agreement to the Movant in the amount of \$36,716.68, which Agreement was secured by the Collateral.

On the April 19, 2024, the Debtor filed a Petition under Chapter 13 of the Bankruptcy Code and the case was converted to a Chapter 11 on June 28, 2024. Debtor owes Movant \$33,493.22 as of March 6, 2025. According to J.D. Power the average retail value of the Collateral is \$27,156.00.

**ARGUMENT**

Section 362(d) provides that “upon request of a party in interest, the court shall grant relief from the automatic stay, (1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or (2) with respect to a stay of an action against property under subsection (a) of this section if (a) the debtor does not have any equity in such property; and (b) such property is not necessary to an effective reorganization.”

Pursuant to 11 U.S.C. Section 362(g), the moving party carries the burden of proof with respect to the issue of equity of the property in question. In re Roxrun Estates, Inc. 74 B.R. 997, 1003 (Bankr. S.D.N.Y. 1987), a secured party is a party in interest for the purposes of §362 motions and by showing that the liens on the property exceed the property's worth, a secured creditor will have met this burden. Id.

As aforementioned, the retail value of the Collateral is \$27,156.00 and as such, no sufficient equity exists. Therefore, the stay must be lifted pursuant to §362(d)(1) and (2).

In addition, "a debtor's failure to make regular monthly payments as they become due constitutes sufficient 'cause' to lift the automatic stay." In re Michael Lancelot Taylor, 151 B.R. 646, 648 (Bankr. E.D.N.Y. 1993).

### **CONCLUSION**

WHEREFORE, it is respectfully requested that the Automatic Stay be modified with respect to the Collateral to permit the Secured Creditor to exercise its rights pursuant to the terms of the Retail Installment Sale Contract, and for such other and further relief as this Court deem just and equitable.

Respectfully submitted,  
WELTMAN, WEINBERG & REIS CO.  
Attorneys for Secured Creditor  
VOLVO CAR FINANCIAL SERVICES US LLC

By: /s/ Geoffrey J. Peters  
Geoffrey J. Peters, Esq.  
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614/883-0678  
gpeters@weltman.com